

Meeting of 1997-4-22 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
APRIL 22, 1997 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

John T. Marley, Mayor, Also Present:  
Presiding Gil Schumpert, City Manager  
Felix Cruz, City Attorney  
Brenda Smith, City Clerk

The meeting was called to order at 6:10 p.m. by Mayor Marley. Notice of meeting and agenda were posted on the City Hall bulletin board as required by State law.

ROLL CALL

Present: Jody Maples, Ward One  
Richard Williams, Ward Two  
Joe Dutcher, Ward Three  
John P. Purcell, Jr., Ward Four  
Robert Shanklin, Ward Five  
Charles Beller, Ward Six  
Carol Green, Ward Seven  
Randy Warren, Ward Eight

Absent: None.

CONSIDER MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF APRIL 8 AND SPECIAL MEETING OF APRIL 10, 1997.

MOVED by Warren. SECOND by Shanklin, to approve the minutes. AYE: Green, Warren, Maples, Williams, Purcell, Shanklin, Beller. NAY: None. ABSTAIN: Dutcher. MOTION CARRIED.

AUDIENCE PARTICIPATION:

Carles Sowers, 3506 NE Silcot Circle, Parks & Recreation Commission member, suggested improvements be made to the Third and Ferris entrance to Elmer Thomas Park and that control of the prairie dog population be undertaken for health and safety reasons, as well as preservation of trees.

Sowers said there is a need for greenbelt and park adoption programs where citizens become involved. He said the school system is interested in helping. Sowers said many people have donated trees and it is important to recognize that and to involve children and civic leaders in improvement projects.

Rex Polone, 1604 NW 32nd Street, said Council awarded a contract for a new water line in the Morford Hills area and they were grateful for the improvement. He said residents received letters saying the project would start in 14 days and be completed in 90 days. Polone said every yard had been dug up and those across the street had to have new water meters; the last time any work was done on it was the Thursday before Easter, and the neighbors are irate because the work has stopped. He said they also received letters saying the value of the property has increased, but with the mud in the front yard, the residents disagreed. Polone said a petition containing 54 signatures had been filed and he read the title of the petition as follows: "The undersigned residents of NW 32nd Street and houses bordering on NW 32nd Street, Morford Hills Addition, request the City of Lawton to take immediate action to rectify the existing unsightly and unhealthy conditions caused by contract awarded by the City of Lawton to Air Equipment Company of Lawton to replace the water lines along NW 32nd Street. The project has not been worked on since March 27, 1997, what work the contractor did complete was done in a very unprofessional manner, we are also concerned about the quality of the work done so far by the contractor and request that this work be inspected by a qualified plumbing engineer." Polone said the standing water is turning green and getting worse as time goes by.

Mayor Marley said the City staff and Council are upset about the contract also, and contact has been made with the bonding company but the contractor still has 29 days left on the contract, considering bad weather days. He said staff would take care of it as best they could and as soon as they could.

Everett Hall, 1515 NW 31st Street, said he was going to speak on the same subject Mr. Polone spoke about and that he agreed with the comments. Hall said his yard was the first to be torn up and that it is a terrible situation.

Donna Chapman, 1632 NW 32nd Street, presented pictures of the standing water and requested something be done immediately so mosquitoes do not have a chance to breed and to alleviate the awful smell.

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John Perry, 1420 SE Hillcrest, said he had a question regarding the plumbing and mechanical codes and that he had made numerous telephone calls to Building Development but could not get a response. He said he understood the 1997 code was available and the contractors have spent \$45 to \$65 per code book for the 1996 international codes and now have learned there is a 1997 code. Perry said action should be taken to have a standard adopted because people are working and do not know where they stand.

Perry said he was notified today that his plumbing contractors license had expired. He said the interpretation received from Mr. Tucker prior to December 1, during a class, a number of those in attendance interpreted that the new licensing would not take affect or there would be no renewals of contractors licenses in town until June and that mechanical and plumbing would be done at the same time. Perry said he was notified today that he had to pay \$300 to update his license. He said he tried to get someone from Building Development to call him back but no one ever called. Perry said he knew Mr. Tucker was busy and thought it was just him but then found that others had interpreted the statements the same way he had, that the licenses should be renewed in June. He said there is a long list of contractors and journeymen facing this same problem and they had attended every class Mr. Tucker held. Perry said the only people who got stuck were those who attended the class. He said some fairness should be shown. Perry said he contacted Mr. Williams who said other contractors had called him on the situation also. He said he did not feel he should be penalized for their interpretation of a statement given by a City official.

Mayor Marley said Mr. Tucker would be contacting Mr. Perry. Maples said the Council Task Force is reviewing the codes on May 1 and encouraged Perry to attend. Perry said he had attended all such meetings and last year in September it was stated that the international codes would be adopted, and contractors were encouraged to buy the books at that time because they were to go into effect in October but there would be a 90 day grace period and it would take effect January 1. Perry said a meeting was held at the Library with the Mayor and Mr. Tucker and the statement was that it would be done April 1.

Maples asked if the codes on the books right now would be enforced until the new codes are adopted. Perry said the State adopted the 1996 mechanical and plumbing international codes and the City is not in compliance with the State, which is more strict. Maples asked the City Attorney which codes were to be enforced. Cruz said if the State adopted the 1996 codes, they should be enforced. Perry said they operate under one rule in the county and under another in the city. Mayor Marley asked that staff get with Mr. Perry and put out the word on the subject.

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The following statements which are inserted verbatim:

Virtu: My names Tony Virtu. I have a letter here, its a cover letter that I dropped off at an office here in City Hall. It deals with police misconduct, it also had ten attachments, eight documents and one photograph. Im not going to bore you with the whole thing, theres a lot of details here, Im just going to paraphrase from one of the paragraphs, it says look at the photo. It shows a group of men standing by a sign. I have circled both Billy Ray Dees and Officer Jackie LaRoche of the Lawton Police Department. I dropped this stuff off about two weeks ago, its stamped here when it was received. The sign that these fine, upstanding citizens are standing by reads "Niger, dont let the sun hit you in the ass".

Mayor: Yes, Mr. Shanklin.

Shanklin: I didnt catch all that, but hes through. Mr. Sowers made a pretty good speech, I think we need a ...

Mayor: Wait a minute, sir, youre not permitted to hand out...

Virtu: You have not listened to me...

Mayor: Sir...

Virtu: Now I do not wish to speak to you.

Mayor: Thats fine sir, and if you dont control yourself, Ill have you ejected." (end verbatim excerpt)

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Regarding previous audience participation comments, Shanklin volunteered to work with Mr. Sowers in his efforts. He asked that residents in the 32nd Street area receive an explanation as to contacting the bonding company and how the project would proceed. This was briefly discussed and the Public Works/Engineering Director met with the residents in the hall to explain the situation further. Shanklin said he felt the \$200 fine assessed regarding licenses for plumbing and mechanical contractors should be refunded.

#### UNFINISHED BUSINESS:

1. Consider an ordinance closing a portion of the public ways adjacent to the Burlington Northern Railroad on SW 4th Street, SW 9th Street, SW 10th Street, and SW 15th Street, reserving said public ways for public utilities and

pedestrian/bike trail or walkways. EXHIBITS: LOCATION MAPS; ORDINANCE NO. 97-\_\_\_; EXCERPT OF COUNCIL MINUTES; 1/31/97 LETTER FROM PUBLIC WORKS/ENGINEERING DEPARTMENT; 2/24/97 LETTER FROM ODOT.

Shanklin said on December 14 there was a motion to direct staff and the Council members designated by the Mayor to meet with ODOT to see what the consequences are of opening possibly 9th Street, or more, and what the cost would be to the City. He said that has not been done and the Mayor does not have that administrative authority, but they should be able to meet with ODOT. Shanklin said instead of meeting, he got a copy of a letter on January 21 that Mr. Ihler wrote to ODOT and a response from Mr. Cobb. He said he thought the Council should be doing this and the Council had voted to do so. Shanklin said he could not vote to close all the crossings, but could vote to close all but 9th Street. He said he wanted the same action approved on December 14, which was to go talk to ODOT. Shanklin said it should not have been done through letters and that the Council members have been elected and should be in on some of these decisions.

MOVED by Shanklin, SECOND by Beller, to delete closing of 9th Street, and approve closing the others shown in the ordinance, adopt the ordinance, read the title only.

Purcell asked if a Council member had ever met with ODOT. Shanklin said no, and there was a provision made for a bicycle path on 9th Street so it might as well accommodate vehicular traffic as well. Williams said if we have not even talked to ODOT to negotiate with them, he would suggest tabling the entire matter until after that time.

SUBSTITUTE MOTION by Williams, SECOND by Green, to table this until members of Council, along with staff, meet with ODOT. AYE: Warren, Maples, Williams, Dutcher, Purcell, Shanklin, Beller, Green. NAY: None. MOTION CARRIED.

2. Consider adopting a resolution declaring the structure at 304 NW 19th Street to be dilapidated and detrimental to the health and safety of the community, and authorizing the expenditure of City Council Contingency Funds, if necessary, to demolish the structure. EXHIBITS: RESOLUTION NO. 97-\_\_\_.

Dan Tucker, Building Development Director, presented a video of the structure and reviewed history of the property as follows: Property was brought to the attention of Building Development in January 1996 as being open and dilapidated; condemnation was considered by Council on July 9, 1996, at which time it was tabled for 90 days to give the owner time to develop a plan and establish a prospective tenant for the building. Item was returned to Council on October 22, 1996, at which time the item was tabled for 180 days to allow time for processing a Use Permitted on Review by the LMAPC and for application to be made for a revocable permit due to the parking situation. LMAPC granted a Use Permitted on Review on December 11, 1996; Council approved a revocable permit to allow for maneuvering on the right of way on December 17, 1996. The contractor applied to renew his contractors permit in February 1996 but did not provide the certificate required from the State Department of Labor; that certificate was provided on April 17 at which time the contractors license was renewed, and the building permit for this structure was issued.

Mayor Marley said information had been submitted to Council from Travis Construction on this item.

Shanklin suggested Mr. Warner be allowed to speak and said he did not think staff was recommending this structure be demolished.

Charley Wright, Design Associates, said Warner asked the City about his plans and specifications in February 1997 and at that time the documents had been lost, and it was a week before he had been asked to submit them again, so they had not been reviewed at that time. New plans were submitted in mid-February, 1997. He said Warner was notified March 5, 1997, that his building permit was ready but he was in the middle of another project and he picked up the permit on April 17, 1997. Wright said the pictures do not show the work done on the interior of the building; the items identified by the structural engineer, such as the slab being taken up and the structural modifications, have been done to the inside of the building. He said Mr. Warner would ask that he be given the 180 days allowed on the permit.

Shanklin asked if the building permit lasts for six months after issue. Tucker said yes, the contractor has 30 days to begin the remodel and 180 days to complete. Tucker said the building is secure and not open or accessible. Shanklin asked if it was brought back due to Councils action last October and Tucker said yes.

Shanklin asked if Tucker wanted to tear the structure down tomorrow. Tucker said no, as Mr. Wright mentioned, the work that has been done is on the interior.

Purcell said there is a sold sign on the property and asked how that relates to this action. Tucker said the tenant indicated that once the work was done and actions taken to allow use of the building, that he would purchase it. Wright said it is the same buyer they had October 16 and the sold sign was to let people know that the building was sold and something was happening. Purcell said that is the sold sign from Mr. Warner to the CPA firm that is buying it and Wright agreed.

Williams asked why the commentary included a recommendation to demolish the structure. Tucker said Council has the option of allowing the contractor to continue or to order demolition.

Purcell said this has been before Council several times and the matter should be concluded.

Joe Warner said he worked on a project for the company Mr. Purcell works for and it took a year to put the package together and it was a \$6,000 project, so it takes a long time to do these things. Purcell said his concern was that he did not

want this to come back before the Council in another 180 days. Warner said he did not think that would happen, and that in October he had no idea that it would take five months to get a building permit. Wright said after the 180 days was given in October, they had to apply for a Use Permitted on Review and a revocable permit so that took much of the time and work could not be done without those items.

Maples asked if City staff was user friendly. Wright said he works with City staff all the time and that was an awkward question for him to answer. Wright said he would have to say they are but that he was here more than other people and is more familiar with how things work and the department heads. Wright said if a person comes in from the outside and is not familiar, the answer would be that they are not. Wright said they are trying to be so user friendly and there are so many regulations and reviews to be sure everything is right; there is no conspiracy in City Hall against contractors or to stop advancement but felt it was procedure problems and as soon as one is set, it is changed and there are problems in getting one procedure, sticking with it and giving it long enough to work. Maples asked that Wright provide suggestions at the task force meeting.

Cruz said if Mr. Warner was issued a building permit for the structure, he has 180 days to complete the work and recommended the contractor be given that opportunity. Tucker said it was brought back only because it was tabled in October.

MOVED by Shanklin, SECOND by Beller, that the resolution be denied. AYE: Maples, Williams, Dutcher, Purcell, Shanklin, Beller, Green, Warren. NAY: None. MOTION CARRIED.

#### BUSINESS ITEMS:

4. Hold a public hearing to consider the FY 1997 Consolidated One-Year Action Plan, receive a briefing, receive input from citizens, and provide council input for the plan. EXHIBITS: FY 97 PROPOSED FUNDING ALLOCATIONS SUMMARY; FY 96 FUNDING ALLOCATIONS SUMMARY.

Mayor Marley asked that Item 4 be considered at this time due to those in the audience wishing to speak.

Frank Pondrom, Director of Housing and Community Development, said the application is due May 15 and this is the final public hearing to meet HUD requirements for citizen participation. He said the projects listed are a result of various meeting held starting last October at neighborhood centers and the library. Council may direct different projects which would be reviewed by staff to determine eligibility. This plan furthers the five-year consolidated plan making improvements in the Lawton View area, which is the target area.

Williams asked if the Lawton View area must receive more funding because that is how it is shown in the five-year plan or if there are other factors. Pondrom said it was targeted because of things happening there, and at the public hearings this year many of the people who came to talk about what they would like to see in the plan emphasized they wanted to see more money targeted toward the Lawton View area.

Beller asked if MedTrans, 98-07, is just to serve a particular area or could it pick up those outside an area. Pondrom said it provides service throughout the City to those who apply and are eligible, as long as they are low and moderate income persons.

Beller asked if a person is handicapped, but not low income, could they be transported by MedTrans. Pondrom said if you are not low income, you would not be eligible for MedTrans. Beller asked if persons could pay a fee and Pondrom said MedTrans does not accept any fees.

Williams asked if changes could be made to the five-year plan. Pondrom said yes, it could be done through the citizen participation process and public hearings.

Maples asked how the youth employment program worked out last year. Pondrom said there is a draft contract with United Social Action for a youth employment program and it is being reviewed by the legal staff. Maples asked if the \$20,000 from last year is still set aside and we are now going into the new fiscal year. Green said the Salvation Army Boys Club was going to run it and they need someone to take the program and place the kids. Maples asked if there would now be \$40,000 for youth employment. Pondrom said United Social Action applied to use the \$20,000 this summer on a program in the Lawton View area. Schumpert said \$40,000 would be available July 1 for youth employment.

Maples asked if the youth center could be located in any low income area or if it had to be in Lawton View. Pondrom said yes; the reason it is in Lawton View is they requested \$50,000 for materials and Great Plains Vo Tech and Lawton Housing Authority will provide the workers and volunteers to build a meeting house; it is not a recreation center but a meeting facility for scouting programs. Maples said if Dunbar gets going, that facility would be available, and there are other low income housing areas in Lawton besides Lawton View, and there is a big one in Ward One, and asked why this area is the only one being considered. Green said this area qualifies for CDBG funds. Maples said there is a huge area in Ward One that qualifies also.

Green said the Dunbar Center will be for youth also and asked the location of the Lawton View Youth Center. Pondrom said the Lawton View Center would be at 1521 Pennsylvania and Dunbar is at 17th and Douglas. Pondrom said the Lawton Youth House is for meetings only for scouting activities, for example. Maples asked why they could not have such a facility in Ward One. Pondrom said there is not a reason they could not have it in any ward as long as it is a low and moderate

income area; the five year plan shows the greatest need in the Lawton View area. Maples asked if that means everything has to be in that one area. Pondrom said the federal government says if your five-year plan shows the greatest need in one area, you must have some logic to your plan showing the preponderance of the funds go into that area, target that area; it does not mean that some funds could not go to another area.

Schumpert said the department holds public hearings in various areas and develops the list of projects based on input from those hearings. Pondrom asked if there are other areas to suggest and Maples said the 2300 block of Williams should be considered.

Beller asked how the Lawton View Youth Center would be financed after it is built. Pondrom said the Great Plains Improvement Foundation (GPIF) and Lawton Housing Authority have put this together with scouting organizations.

ODell Gunter, GPIF Director, said the center would not be a place to play sports or games but would be a meeting place; for the past two years GPIF has provided transportation for children in the Lawton View area to travel outside the neighborhood to go to meeting places. GPIF owns the facility, the Housing Authority and Vo Tech will renovate the building and make it a place for the children in the neighborhood so they will not have to leave the neighborhood. Vo Tech has agreed to do the work and the CDBG funds will provide the materials. Gunter said it was a very worthwhile effort and would allow for more participation.

Beller asked why the \$50,000 would not be put into the Dunbar project instead of having two facilities in fairly close proximity. Gunter said his organization planned to lease space in Dunbar for programs, and the building may not be accessible to all the groups at once. Gunter said the Lawton Housing Authority would operate the programs; GPIF owns the building and will provide insurance on it but it would be used solely by the Lawton Housing Authority without a lease and at no cost to them.

PUBLIC HEARING OPENED.

Rita Love, Lawton Housing Authority, distributed pictures of the structure Mr. Gunter was speaking of, referred to as the Pennsylvania House. She explained the need for the facility and the various programs that would be offered.

Williams asked if fees are charged for participation in the programs. Love said fees are paid through a federal grant. Williams asked how many families are transported and Love outlined the various functions children are transported to be able to attend. Williams asked if the structure is a house. Love said yes, 1222 sq. ft., it will be demolished and a new structure built. Maples asked if any other property had been considered and Love said she did not know.

Purcell asked if it would be feasible to add the same amount of square footage to Dunbar School and have Vo Tech do the work. Love said 80% of the space at Dunbar is taken.

Green asked how many children participate and Love said over 100 are transported to be able to participate. Beller asked if the kids were within walking distance and Love said some of the older ones do walk but it is one and a half miles for some to get to the Multi-Purpose Center. Williams suggested the school system has portable buildings that may be available, or something similar.

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Lisa Stein said she is the Director of the Area Prevention Resource Center, which is a joint project between Comanche County Memorial Hospital, the Department of Mental Health and the State Health Department. She explained the "not yet" project with the goal being to reduce teen pregnancy, and the Red Cross effort to prevent HIV/AIDS. Funding for this request was shown as \$48,100 under 98-10 in the proposed FY 97 funding allocation summary. State Health Department currently provides a grant of \$28,000; requested amount from CDBG funding was \$86,000. Memorial Hospital has pledged a \$10,000 matching grant.

Shanklin asked the location of the office and Stein said 4411 W Gore Boulevard; meetings with teens are held in the neighborhoods.

Dutcher asked if application had been made for United Way funding. Stein said application had been made to that agency, as well as many federal grant applications, and no funding had been received.

Warren said he did not have page two of the proposed budget explaining how half of this amount is for personnel. Stein said Pondrom has that information and those are salaries for Comanche County Memorial Hospital employees and that information is confidential. Stein said that information would be supplied if it is needed but she was following their policies.

Purcell asked why the City was being asked to fund Comanche County Memorial Hospital employees from CDBG funds. Stein said several people would be funded from this and the hospital does put in a \$40,000 cash match each year, with \$10,000 toward teen pregnancy prevention. She said it was not fair to ask the hospital to fund a project that would benefit the entire city. Purcell said the personnel budget of almost \$40,000 is based on the salaries of Comanche County Memorial Hospital employees, and asked if that was correct. Stein said the persons would be employed for this project and are not currently employed in this capacity. Purcell asked if it would be based on the hospitals salary scales and Stein said yes. Stein said a prevention specialist would be \$21,000 to \$25,000; the support person would be about \$12,000 per year. Purcell suggested the costs be shared with the hospital.

Beller asked if the \$20,000 from the youth employment program could be used on this project to employ the youth Ms. Stein spoke of. Pondrom said there are several categories where only a certain amount can be spent; 15% of the entitlement can be spent for this type of activity, so it was split between the activities that made requests. Activities in this category as shown on the funding allocation summary were Hospice of Lawton Area, Inc., Christian Family Counseling Center, Area Prevention Resource Center/Red Cross, Youth Employment Program and Med Trans. Williams suggested leaving the funding amounts as projected because all of the projects are worthy of funding.

Judy Prater, Hospice of Lawton Area, Inc., explained the purpose of this non-profit organization in providing care to patients who have been diagnosed with a terminal illness and expected to have six months or less to live, and their family members. FY 97 proposed funding allocation summary reflects funding of \$48,100 for this organization. Care is provided to any patient regardless of their status or ability to pay. Plan is to be able to increase the number of patients served from an average of 17 at this time to 30 or 40. \$28,500 was received last year from United Way which provided care for ten non-funding patients.

Dutcher spoke in favor of the request and related a personal experience he had with this program. Prater pointed out there is another hospice in Lawton but it is a for-profit organization which cuts off the non-funding limit at 10%.

Shanklin asked what services hospice provides and the related costs. Prater said a doctor must determine that curative measures are not worth seeking, that the expected outcome will be a death, and that no further treatments will be prescribed except for pain medication. An RN and LPN are sent to the family and carry out the care plan prescribed by the doctor. Social workers deal with issues of wills, powers of attorneys, and so forth. Shanklin asked if there are paid employees in addition to volunteers and Prater said yes.

Mayor Marley asked if a doctor can recommend a patient go to either the for-profit or non-profit hospice. Prater said yes, referral can be made to either organization; however the for-profit hospice cuts off acceptance of non-funding patients at any one time to 10%, so if they are at that 10% level, they will refuse the care to the non-funding patients and then the physician has no other choice for hospice care than to go to Hospice of Lawton Area.

Ray Polk, Chairman of the Board of Directors of the Northside Chamber of Commerce, said the Northside Chambers Minority Business Development Center is seeking funding from CDBG. He said a report is provided to Pondrom monthly showing activities that have to do with expenditure of funds from CDBG. An audit was done as of April 30, 1996, that was provided to Pondrom. The Business Development Center provides assistance not available from any other source the way it is done.

Williams said Council members have never received copies of the reports and asked that be done.

Shanklin asked the total budget amount for the Northside Chamber of Commerce.

Annette Dawkins, Executive Director of the Northside Chamber of Commerce Minority Business Development Center, said the Center receives an Oklahoma Department of Commerce grant of \$65,000 last year and the City at \$62,500 through CDBG. Accomplishments of the program were given by Dawkins. Shanklin asked the total budget for the Northside Chamber and Dawkins said she would provide that information. Williams asked if the Center receives funding from sources other than CDBG or the State Department of Commerce. Dawkins said yes, from the Northside Chamber. Williams asked if the grants provide 75% of the funding and Dawkins said that would likely be close.

Dr. Charley Bear, Executive Director of the Christian Family Counseling Center, said the Center is a non-profit corporation that was founded in Lawton in 1985 located in Cache Road Square Mall, and is a United Way agency. FY 97 proposed funding allocations summary shows \$20,000 for this project. The request would assist in funding the provision of mental health care for those who are unable to pay for that service. Low and moderate income families are likely one parent families and this group could be provided a great service. Marriage counseling could also be provided. Charges are \$50 per session; 60% is paid to the counselor and 40% to general operating funds.

Williams asked if the funding from United Way is targeted to low and moderate income persons. Dr. Bear said \$20,000 is received from the United Way and is used to supplement primarily the reduced fee counseling, which is a different entity, for those who, based on family income, qualify for a sliding scale rate and the United Way subsidizes the reduced payment from the sliding scale. Dr. Bear said about 50% of their clients receive reduced fees or are not charged a fee. Dr. Bear said around 100 people per year could be helped with the \$20,000 requested from CDBG depending on how many sessions are required.

Williams asked which projects are included in the 15% limit. Pondrom said MedTrans, Hospice, Christian Family, and Area Prevention, with the total being \$181,200. Williams asked if staff was looking for residents to attend the hearings and present their needs for consideration. Pondrom said yes, and they made a presentation at the Comanche County Human Resources Center at which time he relayed that 15% of the CDBG funds could be used for the type of activities discussed tonight. He said the requirement is that it must be a new activity or a demonstratable increase in a level of service, and not used to supplant other funding currently received. Discussion was held on using CDBG funds to target the Lawton View area, and expenditures that are proposed to be made in other low and moderate income areas. Street and sewer improvements in Lawton View would accommodate the Dunbar School area.

(\*Green left the meeting during discussion on this item and did not return.)

Purcell commended staff on the presentation and on receiving it before the deadline for submission. Any changes that Council would like should be submitted as soon as possible to allow for investigation as to whether or not a project would meet the requirements of the program. Final decision will be required by the May 13 Council meeting.

PUBLIC HEARING CLOSED.

MOVED by Beller, SECOND by Purcell, that \$20,000 of the youth employment program funding go to the Area Prevention Resource Center, for purposes of guidance. AYE: Williams, Dutcher, Purcell, Shanklin, Beller, Warren, Maples. NAY: None. MOTION CARRIED.

ADDENDUM ITEM: Consider approving a Cooperation Agreement with Comanche County Home Finance Authority (CCHFA) to link the Authority's Mortgage Revenue Bond (MRB) Program and the City's HOME First-Time Homebuyer Program to access matching credits from the MRB proceeds. EXHIBITS: COOPERATION AGREEMENT.

Pondrom said staff had been working on this for some time to obtain a match for the HOME program.

MOVED by Purcell, SECOND by Williams, to approve the Cooperation Agreement. AYE: Dutcher, Purcell, Shanklin, Beller, Warren, Maples, Williams. NAY: None. MOTION CARRIED.

3. Hold a public hearing and consider an ordinance amending Section 18-581A, Chapter 18, Lawton City Code, 1995, to allow pet shops as a Use Permitted on Review in a C-1 Local Commercial District. EXHIBITS: LETTER FROM PRISCILLA A. PENNINGTON; ORDINANCE NO. 97-18; LMAPC MINUTES OF MARCH 26, 1997.

Schumpert said staff does not support the amendment as there are a number of parcels that allow this activity; recommendation from the initiator is to hold the public hearing and approve the request.

Purcell said this is related to the request from the lady who spoke at the meeting at the library who wanted to open a bird store; LMAPC approved the proposed ordinance. He said he could not imagine how many people would want to open bird stores in C-1 in the City over the next 20 years, so this is a minor change and there seemed to be no objection.

Beller said the logic used by staff to say there are already areas of C-1 that could be used so others are not needed is not logical reasoning. Schumpert said another person could request a Use Permitted on Review for a pet shop that would be more intrusive than just birds, and the City would likely have to approve it; there is not a hardship on this individual because there are a number of other locations available which appear to be good business locations. Schumpert said a person could request a Use Permitted on Review for a pet shop selling Doberman pinchers, and it would be difficult to disapprove that after another has been approved.

Beller said if the person wants to be in a specific location and the Use Permitted on Review is approved, then the logic that says do not make more commercial until all the existing commercial is filled does not make sense. He said another portion states that this does not abut a major street, but in this instance you can jump from this location to Ferris. Schumpert said Ferris is not considered a major street. Beller said that may be a problem also.

Maples said the letter from the lady sounds like she is already in operation. Purcell said is operating in another location and has given up her lease anticipating moving to the new building.

Purcell said he disagreed with some of Schumpert's statements and that a similar argument had been heard at LMAPC. He said this is a Use Permitted on Review, and if someone wants to run a pet store and the LMAPC and Council look at it, and it is to run a bird store or a fish store and they grant approval on that, the next person who comes in for a Use Permitted on Review and wants to run an elephant store or snake store or outdoor run, that can be disapproved and that is not discriminatory because they are two completely different kinds of pet stores. Purcell said the other option was to define types of pet stores.

Purcell said his question to the City Attorney is, is someone running a pet store that is birds only, use permitted, and that is granted, and the next person comes in and wants to operate a pet store but has outdoor runs and dogs and we say no, is that a problem.

Cruz said the authority for approving a Use Permitted on Review will be by the LMAPC and not the Council; Use Permitted on Review is based on intensity of use and if, for example, the present facility will be used for a particular use and the subsequent use could be more intensive and be more intrusive then the Commission could deny that; it would have to be taken on a case by case basis.

Shanklin said his problem was the statement that this is for birds and birds only. Purcell said the person would ask LMAPC for a Use Permitted on Review to sell birds and birds only. Shanklin said the letter from the lady says she does not now buy or sell cats or dogs, but what if they want to do that day after tomorrow. Purcell said they will not be able to because the Use Permitted on Review by LMAPC will not permit it. Cruz and Schumpert said it will allow for that.

Mayor Marley said two different rulings had just been given and he asked for an explanation. Cruz said the ordinance

would permit a pet shop after Use Permitted on Review in a C-1 district. Cruz asked Bigham if the term "pet shop" was defined in the zoning code and response was no.

Cruz said if this is permitted for a pet shop which is permitted within the confines of the City Code in terms of animals as permitted under Chapter 5 and then later on something comes along which is more intrusive, as he mentioned elephants, then that would not be permitted because elephants under the City Code are not permitted within the City limits. Since this is pet shop, you could not just say one type.

Purcell asked if it was correct that once the Use Permitted on Review is passed, someone has the option to go to LMAPC and operate a specific kind of pet store that they explain to LMAPC and LMAPC approves or denies on that particular pet store; if they say I want to operate a bird only pet store, LMAPC could say yes, grant this person approval to sell only birds in that pet store under the Use Permitted on Review. If the person says they want to sell dogs and cats, LMAPC could say no and not grant the Use Permitted on Review. He asked if that was correct. Cruz said no; permission is being granted to operate a pet shop.

Mayor Marley said this is getting out of hand and the Council needs an answer, can the LMAPC approve someone with birds but deny someone with dogs and cats. Cruz said no. Mayor Marley asked why. Cruz said because the term pet shop does not distinguish. Mayor Marley said if you have a dog that is outside barking, it is more intrusive than with birds.

Schumpert said if the outside runs are shown, that would be more intrusive, but if the person does not add to the facility, they could change from birds to cats or anything permitted under Chapter 5.

PUBLIC HEARING OPENED.

Jim Kitchens said we are back to square one from two months ago and the Mayor had tried to add some sense to this; lets add all the pets that you can think of to this request, these people now have some reptiles, lizards. This area that we are wanting to establish a pet shop is in a residential area that is C-1 small shopping center strip; surrounding that area are family dwellings with dogs at every back door; there are also children there and no one objects to any of this. He said there should be a simple solution to this where a restriction could be placed on it such as Purcell mentioned. Kitchens said he was not asking for that and they may add fish, which are not noisy, and asked what the hang up is and the more we talk about it, even the board they talked to first, one member, the chairman, said he owned three pieces of property within two blocks of that location and did not object and say no objection it could cause.

Shanklin said the problem is the definition of pet shop and he did not object to the amendment to the ordinance.

Kitchens said they did not want any outside runs, they intend to have a groom shop inside the building, no outside runs, no kennels, nothing like that, but if that is a problem, get rid of the dogs across the fence. He said the dogs are not bothering anyone and it is just that ridiculous. Kitchens said the Council makes the rules and asked that something sensible be done.

Shanklin asked Cruz for a definition of pet shop and asked whether it could be defined. Cruz asked Bigham if the term pet shop is defined in Chapter 18 and Bigham said no. Cruz said since it is not defined, the City Code provides that the term will be taken in its normal, common sense meaning and in this situation you have to apply what a pet shop is in a common sense term, normally permitting the keeping and sale of animals that are permissible to be maintained and kept within the City limits as provided in Chapter 5.

Shanklin asked if pet shops could be in C-2 zoning and response was yes. Shanklin asked why an application was not submitted for a rezoning instead of doing this. Mayor Marley said there is more than just this one property involved.

Warren asked if language could be included saying the pet shop would be fully enclosed within a structure. Maples said all pet stores are fully enclosed. Williams asked if this would work if it was on a major street and Schumpert said yes. Williams said there is a tremendous amount of traffic on Ferris and asked what had to happen before it would be considered a major street. Cruz said the City Code defines a major street and arterials and collectors. Maples asked if that could be defined in the Code. Mayor Marley said that is a major project in itself.

Schumpert said all staff is doing in this instance and the only intent and the only reason they could not support it was that if whoever owns this and they move out and someone else comes in and does it differently, if that is acceptable to Council, that is fine, but experience has shown that it is not a good thing to do. If council is comfortable with any animal being sold inside the building that is inside the building, that is fine, but that he would consider an outside run being a change and that LMAPC could say no, you cant add runs, but if you stay internal and want to sell parrots and that is allowed, then that is fine. Shanklin said if a person has a Use Permitted on Review and moves out, that can be withdrawn.

Purcell said if this were on a major arterial, under the current City Code, a Use Permitted on Review in C-1 is allowed; this is not a major arterial so the only change is to allow it in C-1 with a Use Permitted on Review. When it goes to the use granting group, which is LMAPC, they can say no, we will not grant it, then it is a dead issue. Purcell asked how many people would want to put pet stores in a C-1 zone on a non major arterial in Lawton in the next 20 years.

Priscilla Pennington said she is the owner of the pet shop, and it would be her understanding that if she were given the Use Permitted on Review and were to close her doors and sell her business to someone else, that the new owner would also have to apply for a permit; and if they wanted to have dog runs outside, they could be either approved or denied.



Williams said the parking at 17th and Ferris is not real great.

Pennington said there is parking on the end of the building as well as in front, and at any one time she may have five cars at her business on a very busy day. She said it was not a large business and that she was a Lawton resident who wanted to do business here and asked that Council promote Lawton businesses. Pennington said if there are any restrictions that need to be put on a pet shop to be able to operate in this location, she would be willing to comply because this is an ideal location for her business.

PUBLIC HEARING CLOSED.

MOVED by Purcell, SECOND by Williams, to approve Ordinance No. 97-18, amending Section 18-580A, Chapter 18, Lawton City Code, 1995, to allow pet shops as a Use Permitted on Review in a C-1 local commercial district, waive reading of the ordinance, reading only the title.

(Title read by Clerk) ORDINANCE NO. 97-18

AN ORDINANCE RELATING TO PLANNING AND ZONING AMENDING SECTION 18-581A, CHAPTER 18, LAWTON CITY CODE, 1995, AS AMENDED, ALLOWING PET SHOPS AS A USE PERMITTED ON REVIEW IN C-1 LOCAL COMMERCIAL DISTRICT.

VOTE ON MOTION: AYE: Purcell, Shanklin, Beller, Warren, Maples, Williams, Dutcher. NAY: None. MOTION CARRIED.

5. Hold a public hearing and adopt a resolution declaring the main structure and carport at 1516 SW Oklahoma to be dilapidated and detrimental to the health and safety of the community, and authorize the expenditure of City Council Contingency Funds, if necessary, to demolish these structures. EXHIBITS: RESOLUTION NO. 97-47.

Tucker presented a video of the property; department was first notified of dilapidated conditions on October 18, 1996; owners were provided a list of requirements to make the structure safe and habitable; owners are not local residents. People are removing lumber from the sides of the building; roof is rotted; interior is heavily damaged; wooden floor is buckled and warped; owner has not contacted the City.

PUBLIC HEARING OPENED. No one appeared to speak.

PUBLIC HEARING CLOSED.

MOVED by Shanklin, SECOND by Purcell, to approve Resolution No. 97-47 to demolish the structures at 1516 SW Oklahoma. AYE: Shanklin, Beller, Warren, Maples, Williams, Dutcher, Purcell. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-47

A RESOLUTION DETERMINING CERTAIN STRUCTURES TO BE DILAPIDATED AND DETRIMENTAL TO THE HEALTH, BENEFIT, AND WELFARE OF THE COMMUNITY, AND ORDERING THE DESTRUCTION AND REMOVAL OF SAID DILAPIDATED STRUCTURES.

6. Receive a briefing on the Sewer System Evaluation Survey (SSES) from the Public Works/Engineering Director. EXHIBITS: NONE.

Shanklin said the final report was submitted to EPA and ODEQ and asked what action the Council could take if it disagreed. Schumpert said the report was based on the survey done by CH2M Hill; the briefing is on the next step relating to the sanitary sewer evaluation to meet the DEQ mandate.

Jerry Ihler, Public Works/Engineering Director, said in 1994 the City received an admin order from EPA, and in 1995 a consent order from ODEQ, to eliminate sanitary sewer overflows. CH2M Hill and Biggs & Matthews were hired to perform a sanitary sewer evaluation survey, which was performed and included flow monitoring, physical inspection, smoke testing and TV inspections. As a result, in January 1997, Council received a summary of the report that identified the rehabilitation program, and the number provided for the rehabilitation was \$61 million approximately.

Ihler said a draft report was submitted in March and a final report in April to ODEQ and EPA to comply with those consent orders. Part of that report included a schedule which requests that the program begin in 1998 and continue for 20 years because \$61 million is a lot of money to rehab a system, and as important is the fact that \$61 million worth of construction all over the City, the most we can endure from a logical standpoint or the most we can manage is \$2 to \$3 million a year to have various areas of town torn up as a result of rehabilitating the sewers that need correction. He said that is all the citizens would put up with and be able to manage, so we requested 20 years with ODEQ. ODEQ is reviewing the report and a meeting has been scheduled for May 2, 1997; Council members are strongly encouraged to meet with DEQ. Part of the discussion will be to go through the program with them and to negotiate for the 20 years we are requesting.

Ihler said Wichita Falls received ten years with regard to implementing their program and that is the maximum amount anyone has been able to get. Lawton is in a little different situation in that we will be negotiating with ODEQ, where Wichita Falls was negotiating with EPA. EPA has delegated the responsibility of the program being addressed to the State level so we are hoping, given the fact that we can negotiate with Oklahoma, that we will be able to have a little better success and come up with a reasonable program.

Ihler said he would encourage as many of the Council members to attend as can on May 2 at 10 a.m. Letters will be sent giving further information to Council.

Beller asked if it would be appropriate to seek support from the State legislative delegation. Ihler said that was outside his area but it certainly could not hurt. Beller said he felt Senators Helton and Maddox could be instrumental in requesting any possible aid as far as the time frame and suggested the Council ask the Mayor to send letters requesting assistance as far as the required time frame to address the problems. Purcell asked that a letter be sent to the Speaker of the House also. Beller said all area legislators should be contacted. Mayor Marley said he would send letters and that he had mentioned it to the representatives.

Maples asked if an answer was received as far as this qualifying as an unfunded federal mandate. Ihler said the end result of an inquiry in this regard was that the legislation at the federal level, if they did come up with an unfunded mandate that was categorized as an unfunded mandate that they were required to acknowledge to the citizens that it was an unfunded mandate, but it did not indicate that they would come up with the funding for it. Schumpert said CH2M Hill was also asked to look for funding sources and their response was that this did not qualify. Ihler said the law was passed in 1995 and the program falls under the NPDES Discharge Permit which was started 20 or 30 years ago.

Maples said CH2M Hill would not care who pays for this. Schumpert said they were asked if, on any of their other projects, there were any funding sources; Ihler contacted other communities who had done extensive research and there were no sources under the unfunded mandate law that would apply. The question was the law was anything over \$50 million, that the federal government had to fund, and that this would not fall in that category. Maples asked if staff had been working on a funding source. Schumpert said yes.

Purcell said he sent an e-mail message to a member of Congress asking if Lawton could receive any relief, thinking this would be at EPA, asking if it could be spread out over 20 years, and secondly, are any federal funds available. He said the unfunded mandate thing is a farce because if they pass something and find out it is more than \$50 million, they go back in and vote so each member is on record of knowing the unfunded mandate will cost more than \$50 million; it just puts them on the spot but does not mean they have to give you the money.

Ihler said negotiations will be held with DEQ, but there is not complete assurance from EPA that they are completely out of the picture because the report was submitted to EPA also, and they have delegated their authority to DEQ, which will have some influence, but hopefully Oklahoma will be able to make the decision.

7. Consider an amendment to a contract between the City of Lawton (Lender) and Maria J. Benham, A Single Person (Borrower), to subordinate the City's mortgage on her property at 1132 NW Oak and take other appropriate action. EXHIBITS: LETTER OF REQUEST.

Tom Aplin, Federal Housing Coordinator, said the request is to subordinate the loan. He said after the loan is refinanced, the total liens against the property will exceed the 75% limit established in the policy, so approval would require a waiver or exception to the policy. Aplin said Ms. Benham has been in the program for six and one-half years and her agreement expires in December 1997.

Shanklin asked how this request differed from the request approved a month ago. Aplin said the requests he was thinking of had all been less than the 75% lien requirement.

Williams asked if the City's involvement would end at the end of this year and Aplin said yes; balance is just above \$1,000 as far as her debt to the City at this time on a \$10,000 debt. Williams asked if she could pay that off all at one time. Schumpert said the borrower has never made payments to the City but is only required to remain living in the house.

Warren said the numbers shown in the commentary do not add up; the loan balance was \$23,684, and that amount added to some existing loan amounts came to \$37,418; the loan amount is shown as \$42,000, which leaves \$4,581 difference. He asked the reason for this difference. Maples asked if it was \$42,000 or \$47,000. Aplin said \$47,000. Warren said that made it further off. Aplin said that includes the transaction cost of the loan.

MOVED by Williams, SECOND by Beller, to accept and amend the agreement, allow the woman to get her home refinanced since we will only be involved for another six or seven months, if you look at the good faith she's displayed over this 6-1/2 years, that speaks for itself, and waive the policy.

Maples asked if the City would be holding the lien for 30 years and response was no, the City would no longer be involved after December 1997.

VOTE ON MOTION: AYE: Beller, Maples, Williams, Dutcher, Purcell, Shanklin. NAY: Warren. MOTION CARRIED.

8. Consider utilizing City Council contingency funds to initiate a notification system for license expiration and consider changing the utility bill format. EXHIBITS: REPORTS DATED 2/4/97 AND 3/30/97 FROM REVENUE SERVICES SPV.

Williams said he had received several calls on mechanical and contractors licenses and that some had been used to getting renewal reminders that were not sent; notice may be provided in the newspaper regarding electrician licenses that will be

coming up next month. He said he was not sure that things needed to be mailed, but a notice should have been sent saying that nothing further would be provided regarding renewals.

Beller said he first thought this was an excellent idea, but in conversation with staff it did not appear as easy to accomplish as was originally thought. He said it seemed the investment of \$3,000 to be able to make the notifications would be money well spent. Beller said a man came forward tonight whose license had expired and he expressed the turmoil they must go through to get another license, which should be avoided if possible. He said three businesses were closed because licenses had expired, then you go through the fire marshal, building development, planning and zoning, the entire process again. Beller said it would be good, in the interest of public relations, to try to accommodate the users of the permitted items.

Beller said he had a problem with doing this through the utility bills due to the costs in the neighborhood of \$76,000 vs. the \$3,000 for the equipment to do this particular thing. He said the only ones who receive utility bills are the users of the utility system, and they have others who work for them that are licensed but they would not receive the notification. Beller said the person who holds the permit has to be notified, not just the user of the utility system. He said the liability the City would assume should be considered before going into this process, and that should be researched further. Beller asked the City Attorney about liability to the City if someone does not receive a notice to renew.

Cruz said the City does not have a duty to notify licensees of their permit expiration; once Council takes action to place that notice process in effect, the City then assumes a duty, and under Oklahoma law, if you have a duty to perform something and you fail to do that, then you are liable for failure to perform your duty. He said if the City was supposed to give notice to an electrician to renew his license, and failed to do so and the license was not renewed, then if the City closes the business, the person may look to the City for loss of profit for that period of time the business may be closed.

Beller asked what happened to those who let their license expire after listening to a presentation by the Building Development, and the indication from the man who spoke tonight was that it was not just one, but numbers that have let their licenses expire and they are coming now and having to pay a \$300 fee to be reinstated. Williams said something would be brought up at the next meeting to change that. Beller said that would bring about the question of the adult entertainment businesses that had let their licenses expire, and that opens up a problem.

MOVED by Beller, to table this item until we can get a clearer picture.

Shanklin asked to comment before a second was offered. He asked why all the licenses from Building Development could not be renewed at one time, possibly with the fiscal year. Maples said that was under consideration in the task force.

Williams asked if the City had, for years, sent notices to people regarding their license expirations. Shanklin said the City had sent some notices to some licensees. Williams asked if it had been a policy in the past that the City Clerk did that through her budget. Smith said the postage costs were from her budget in the past. Schumpert said all postage was paid from the City Clerks budget at one time, which made that budget appear inaccurate; postage costs are now paid through each budget to get a better picture of expenditures.

Schumpert said if Council desired that notices be sent, he could be so directed and that could be done.

Williams said he did not have a problem not notifying people, but had a problem with stopping that without telling them it was being stopped. He said some mechanical contractors thought the licenses should be renewed in June and could not now receive a City inspection without coming in and paying \$300, whereas their normal cost would have been \$50.

Purcell said it would seem less costly if the City notified those whose licenses had expired that they would have ten or 14 days to renew before they are closed and do it at the normal renewal fee. He said that flexibility should be provided.

Beller said he also received information from a liquor store that the City was prohibited from licensing certain activities, and that there are many ramifications involved in this subject.

Maples said she agreed with Purcell's idea and asked if the City Attorney could prepare an ordinance directing staff to send a notice to someone after their license has expired giving them 30 days to renew. Williams said he thought that was too long. Maples said the mail system takes quite a while. Schumpert said they would need at least 30 days because some of the mail that has been sent to the City has taken 15 days to arrive from Lawton. Cruz said that could be done but he would have to check each area of the City Code because the adult entertainment business section provides that if a license is not renewed by a certain time, it will not be allowed to operate any longer.

Schumpert asked if this was for builders, plumbers, electricians, and contractors. Maples said even store owners, restaurants, or whatever permits there are to operate. Beller said the list shows 500 solicitor permits and asked if that referred to telephone soliciting. Cruz said those are itinerant vendors, and not those on the telephones. Beller said if Council determines that notices should be sent out, it must narrow down the list as to what should be sent.

Maples asked Cruz how long it would take him to check into this and Cruz said it could be returned on the next agenda.

Shanklin said he understood some of the licenses expired in December, as far as the building trades, but they have been getting inspections in January, February and March with expired licenses. He said he felt that could create liability; the

other scenario is a "what if", but this has already happened.

Warren said he hated to see the new utility bill idea go down. Schumpert said that would be a separate issue. Warren asked that it remain separated and Schumpert said that would be shown in the budget. Williams said the last page of this item includes information on the utility bills and he spoke in favor of sending bills that include information that can be sent to the public.

MOVED by Beller, SECOND by Williams, to table Item 8 until the Council meeting of May 13. AYE: Warren, Maples, Williams, Dutcher, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

9. Consider an agreement with Oklahoma State University to prepare a site and economic analysis plan for the Lake Lawtonka Master Plan. EXHIBITS: SITE ANALYSES; ECONOMIC ANALYSES.

MOVED by Williams, SECOND by Dutcher, to approve this item. AYE: Warren, Maples, Williams, Dutcher, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

10. Consider approval of an agreement for Mutual Aid in Fire Protection and Hazardous Materials Incident Response with Sheppard Air Force Base Fire Department. EXHIBITS: AGREEMENT.

MOVED by Williams, SECOND by Purcell, to approve this item. AYE: Maples, Williams, Dutcher, Purcell, Shanklin, Beller, Warren. NAY: None. MOTION CARRIED.

11. Consider accepting the donation of a state-certified drug detection dog from a city employee to be used during police operations. EXHIBITS: AGREEMENT; CERTIFICATION.

Beller said the City has needed this and that Detective Schucker should be commended for the donation of the dog. Schumpert said Detective Schucker would be the dogs handler.

MOVED by Beller, SECOND by Warren, to approve the donation of Oakley, a certified drug detection dog, and authorize the Mayor and City Clerk to execute the agreement. AYE: Williams, Dutcher, Purcell, Shanklin, Beller, Warren. NAY: None. ABSTAIN: Maples. MOTION CARRIED.

12. Consider approving a resolution amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, to establish a fee for processing offsite improvement dedication outside the platting process. EXHIBITS: RESOLUTION NO. 97-48.

Shanklin asked what would be done with this \$300 and what we would do for it. Bob Bigham, City Planner, said this is a companion item with the ordinance that was passed on March 25 which established a process for the dedication of infrastructure to the City. Bigham said a commercial building would require a sanitary sewer line, which the owner would wish to dedicate to the City. He said this is the process of engineering review and Council approval of the plans and inspection of the line before it is dedicated to the City. Bigham said the fee would cover some of the administrative cost in that review process up until the time the infrastructure is accepted by the Council. Bigham said this is for infrastructure not associated with plats.

Williams asked what has been done in the past in this regard. Bigham said Chapter 21 provided that easements associated with offsite dedication would be approved by Planning Commission, which would condition the approval subject to submission of plans, then it would come before Council for acceptance. He said there was also a parallel administrative policy in this regard. Bigham said language in Chapter 21 was removed and the administrative policy was rescinded, and Ordinance No. 97-14 set up the procedure in the code.

Shanklin said he did not understand. Bigham said as an example the church on East Lee Boulevard, associated with that building permit, a sewer line is being installed, plans were approved, and after the line is finished, it will be dedicated to the City for maintenance purposes. Bigham said that is not associated with a subdivision plat. He said an off site dedication was done for First Baptist Church when they petitioned the Council to close and vacate the alley; plans were approved for their sewer.

Shanklin asked how the figure of \$300 was determined. Bigham said this would cover a part of the administrative costs in review of the plans and so forth. Shanklin said staff are employed whether they are reviewing these items or not. Bigham said it is to the discretion of the Council as to setting the fee, but the purpose of the fee is to cover some of the administrative costs; if Council desires to provide the service at no cost, or charge them to defray some of the costs associated with their requests. Williams asked if there had been no charge at all up to this time. Bigham said \$25 was charged in association with the lot split application.

Maples said this is a large increase in the fees and that she would not support \$300. Williams said that is not a large figure on a commercial building.

MOVED by Beller, SECOND by Purcell, to approve Resolution No. 97-48, amending Appendix A, Schedule of Fees and Charges, Lawton City Code, 1995, and establishing the fee for processing offsite improvement dedication outside the

platting process. AYE: Dutcher, Purcell, Beller, Warren, Williams. NAY: Shanklin, Maples. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-48

A RESOLUTION AMENDING APPENDIX A, SCHEDULE OF FEES AND CHARGES, LAWTON CITY CODE, 1995, ESTABLISHING THE FEE FOR THE DEDICATION OF OFFSITE IMPROVEMENTS AND ESTABLISHING AN EFFECTIVE DATE.

13. Consider authorizing staff to prepare plans and specifications to replace the water line on NW Cache Road (Sheridan Road to 38th Street). EXHIBITS: SKETCH.

Mayor Marley said businesses had problems a while back when work was done on Cache Road and entrances were blocked. He asked that this be considered in this contract.

Ihler said plans would require minimizing problems with access, but the businesses would be inconvenienced during construction. Maples asked if traffic would be down to one lane at any time. Ihler projected that the north, outside lane would probably have to be closed for a period of time but he did not foresee two lanes being closed.

Shanklin asked how deep the line is and Ihler said about three and a half feet. Shanklin asked how many connections are needed. Ihler said every business or commercial property on the north side would have to be tied back in, unless there is a situation where someone on an off street one or two houses down brought their service line back to that main.

Williams asked if the homeowner or business would have to pay for that tap. Ihler said no. Williams asked the length of time for the project and Ihler said around 150 to 180 days for the whole mile, and the entire area would not be torn up at once.

MOVED by Dutcher, SECOND by Williams, to authorize the plans. AYE: Purcell, Shanklin, Beller, Warren, Maples, Williams, Dutcher. NAY: None. MOTION CARRIED.

14. Consider adopting an ordinance amending Sections 10-102 and 10-113, Lawton City Code, 1995, amending definitions and exempting contracting with public agencies from competitive bidding. EXHIBITS: ORDINANCE NO. 97-19.

MOVED by Maples, SECOND by Warren, to adopt Ordinance No. 97-19, waive reading of the ordinance, reading only the title.

(Title read by Clerk) ORDINANCE NO. 97-19

AN ORDINANCE RELATING TO PURCHASING, AMENDING SECTIONS 10-102 AND 10-113, LAWTON CITY CODE, 1995, AS AMENDED BY ORDINANCE NUMBERS 95-62, 96-34 AND 97-7, AMENDING DEFINITIONS AND EXEMPTING CONTRACTS WITH PUBLIC AGENCIES FROM COMPETITIVE BIDDING.

VOTE ON MOTION: AYE: Shanklin, Beller, Warren, Maples, Williams, Dutcher, Purcell. NAY: None. MOTION CARRIED.

#### CONSENT AGENDA:

15. Consider the following damage claims recommended for denial: Takeitha R. Ewing, Damage Claim No. 97-12, and Takeitha R. Ewing, Damage Claim No. 97-13. EXHIBITS: LEGAL OPINIONS/RECOMMENDATIONS. Action: Denial of claims.

16. Consider approving retainer agreements designating Scott Meadors and Dennis Morris as special prosecutors in municipal court. EXHIBITS: NONE. Action: Approval of retainer agreements.

17. Consider ratifying the action of the Lawton Water Authority approving an amendment extending the School House Slough concession lease agreement with Mrs. Charlie Moore until December 31, 1997. EXHIBITS: NONE. (See LWA) Action: Item deleted due to LWA action to table.

18. Consider ratifying the action of the Lawton Water Authority approving lease agreement with School House Slough, Inc., for the School House Slough concession at Lake Lawtonka. EXHIBITS: NONE. (See LWA) Action: Item deleted due to LWA action to table.

19. Consider ratifying the action of the Lawton Water Authority to approve the request of Lessee, Janice Meese, Robinson Landing, Inc., to cancel the subcontract with Adventure Outdoor Rental and enter into a new subcontract with Fun in the Sun, JBM Enterprise, Inc., for boat rentals on Lake Lawtonka. EXHIBITS: NONE. (See LWA) Action: Ratified LWA action to approve request.

20. Consider adopting a resolution setting the E-911 Fee for the period July 1, 1997 through June 30, 1998. EXHIBITS: RESOLUTION NO. 97-49.

(Title only) RESOLUTION NO. 97-49

A RESOLUTION LEVYING AN EMERGENCY TELEPHONE NOTIFICATION FEE, PROVIDING FOR A RATE OF SUCH FEE,

AND PROVIDING FOR AN EFFECTIVE DATE. (Rate is 5%; effective date is July 1, 1997 through June 1, 1998.)

21. Consider accepting the Sewerline Maintenance Project 95-17 as constructed by S.M. Burk Mechanical Contractors and placing the Maintenance Bond into effect. EXHIBITS: NONE. Action: Accept project and place maintenance bond into effect.
22. Consider accepting the 1995 Sewerline Rehabilitation Project 96-3 as constructed by Jodee Construction Company and placing the Maintenance Bond into effect. EXHIBITS: LOCATION MAPS. Action: Accept project and place maintenance bond into effect.
23. Consider submitting a grant application to the Corporation for National Community Service (CNCS) for the Retired and Senior Volunteer Program (RSVP) for Fiscal Year 1997-98 funding and authorize the Mayor to accept the grant when approved. EXHIBITS: NONE. Action: Authorize submission of an application to CNCS for partial funding of the 1997-98 RSVP in the amount of \$21,764 and authorize the Mayor to execute the grant agreement when approved by CNCS and the State of Oklahoma is received.
24. Consider entering into an agreement with Grace Harding Home, Inc., for contract service for litter control and ground maintenance, and authorize the Mayor and City Clerk to execute the agreement. EXHIBITS: NONE. Action: Approve agreement and authorize execution.
25. Consider extending contract for landfill scale tickets. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Extend contract with Colorgraphics "The Print Shop" of Lawton, OK, to 5/31/98 at same terms and authorize execution of contract extension document.
26. Consider extending contract for coagulant aid clay. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Extend contract with Southern Clay Products, Inc., Gonzales, TX, to 4/30/98 at same terms and authorize execution of contract extension document.
27. Consider extending contract for redi-mix concrete. EXHIBITS: MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Extend contract with Lawton Transit Mix, Inc., Lawton, OK, to 6/30/98 at same terms and authorize execution of contract extension document.
28. Consider extending contract for billboard display advertising. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Extend contract with Keleher Outdoor Advertising, Bartlesville, OK, to 2/28/98 at same terms and authorize execution of contract extension document.
29. Consider extending contract for litter control. EXHIBITS: MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Extend contract with Direct Staffing Solutions, Inc., Lawton, OK, to 3/31/98 at same terms and authorize execution of contract extension document.
30. Consider awarding contract for siding replacement. EXHIBITS: MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to Brox Industries, Inc., Lawton, OK, for Item 1b. Vinyl Siding, and authorize execution of contract.

ITEM 31 CONSIDERED SEPARATELY AS SHOWN BELOW.

32. Consider awarding contract for police vehicle equipment. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to Tuxall, Oklahoma City, OK, and authorize execution of contract.

ITEM 33 CONSIDERED SEPARATELY AS SHOWN BELOW.

34. Consider awarding contract for lugger hoist. EXHIBITS: MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to Industrial Disposal Supply, Plano, TX, and authorize execution of contract.
35. Consider awarding contract for aqueous film forming foam (AFFF). EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to U.S. Foam, Charlotte, NC, and authorize execution of contract.
36. Consider awarding contract for riding tractor. EXHIBITS: MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Award contract to Standridge of Duncan, Duncan, OK, and authorize execution of contract.
37. Consider rejecting bids for high intensive use chairs. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION. Action: Reject sole bid.
38. Consider terminating the contracts for Library Books, Services, and Periodicals with Sadler Book and Office Supply, Inc. and Books on Tape, Inc. EXHIBITS: NONE. Action: Approve termination of contracts and authorize staff to make the necessary modifications.

39. Mayors Appointments. EXHIBITS: NONE.

Citizens Advisory Committee (CIP):  
Pastor Gary Bender, Ward 6, Term: 4/22/97 to 8/13/97

Commission on Aging:  
Carol Barnes, Term: 4/22/97 to 12/14/99

Lakes & Land Commission:  
King Wiggins, Term: 4/22/97 to 4/22/2000  
John Guy Erwin, Term: 4/22/97 to 4/22/2000

Building Development Appeal Board:  
Paul Brune, Architect/Engineer Rep., Term: 4/22/97 to 4/22/99

40. Consider approval of payroll for the period of April 7 through 20, 1997. EXHIBITS: NONE.

Mayor Marley asked that Items 17 and 18 be deleted due to previous action in the Water Authority. He said that he had received a request to speak regarding Item 33. Shanklin asked that Items 31 and 33 be considered separately.

MOVED by Williams, SECOND by Purcell, to approve the Consent Agenda items as recommended with the exception of Items 17, 18, 31 and 33. AYE: Beller, Warren, Maples, Williams, Dutcher, Purcell, Shanklin. NAY: None. MOTION CARRIED.

31. Consider awarding contract for baseballs and softballs. EXHIBITS: VENDORS MAILING LIST; BID TABULATION; RECOMMENDATION.

Shanklin said only one bidder was able to meet the specifications and asked why they were written in that manner. Dick Huck, Parks & Recreation Director, said specifications identify the size and weight of the balls following the guidelines of the National Baseball Congress or the Amateur Softball Association. Huck said bids were evaluated according to the specifications and award recommended to the low bidder in all cases; no one was excluded from bidding. Shanklin said they were excluded if they could not meet the specs. Huck said the Dudley softball is a wholesaler and various local sporting goods stores handle the ball, but why they did not submit a bid, he did not know. Shanklin asked if the City could expect delivery from Marietta, GA, and Huck said that should not be a problem because they are from the manufacturer.

MOVED by Shanklin, SECOND by Williams, to approve Item 31. AYE: Warren, Maples, Williams, Dutcher, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

Action: Award contracts to: A.D. Starr, Marietta, GA for Item 1a; BSN Sports, Dallas, TX for Items 1b, 2a and 2b; Bills Scoreboard, Lawton, OK for Item 1c, and authorize execution of contracts.

33. Consider awarding contract for motor grader. EXHIBITS: MAILING LIST; BID TABULATION; RECOMMENDATION.

Mayor Marley said two gentlemen have asked to speak and Council agreed to receive comment.

Henry Boecking, Kirby-Smith Machinery, said his bid was deemed to not meet specifications on the basis of operating weight, torque power and working speed, according to staff. He said specifications called for a minimum of 32,000 lbs. and his, as spec'd in the bid invitation, his would weight 33,664 lbs. On the horsepower item, it is a variable horsepower machine, asking for a minimum of 150 and then escalating up to 185 hp; his machine is spec'd at 166 hp in first and second gear and 190 hp in gears three through six, so the specifications are easily met on those two criteria.

Boecking said on the third item on travel speeds, there was a specification his firm did not meet in that the request was for five gears under 10 mph, five working speeds. He said his machine has a six speed transmission as opposed to an eight speed. Boecking said as far as travel speed, it listed a maximum speed of minimum of 24 mph and his would do 28-1/2 mph. He said on the mow board, which is the actual part of the motor grader that does the work, the request was for a 3/4" thick mow board by 24" high; his is 7/8" thick by 26" high, so it is larger.

Shanklin asked where the weight was lost on this machine. Boecking said the frame is not as heavy but that he did not have the specs on the individual components of the machine; weight is 33,664 lbs. with the ripper, push block, tires, and so forth; strip down it weights 30,100 lbs.

Beller said the information shows an operating weight of 32,000 lbs., and that would include what was spec'd. Boecking said that is the operating weight of the machine with full fuel tank and operator. Beller said Boeckings bid met that criteria and Boecking agreed. Boecking said he obviously met the specification on horsepower, and that his bid included a full machine warranty of 36 months or 5,000 hours at no charge, bumper to bumper; extended power train warranty for five years, 60 months or 7,500 hours can be added for \$1,814.

Boecking said his firms bid is lower than the recommended bidder by \$35,239, and the only place they do not have everything specified in the bid request is that his machine is designed with a six speed transmission as opposed to an eight speed. Boecking said it is a six wheel drive machine with a low profile cab, ninety degree left and right bank slope, full rear ripper, and a difference of \$35,239. He said he took exception to the fact that his bid was disqualified.

Williams asked for staff input. Ihler said the specification on the weight said the SAE minimum operating weight without add on weights or wheel ballasts, 32,000 lbs.; the heavier piece of equipment was requested because the greater the weight, with our side slopes, you have greater stability. Specification called for the SAE minimum operating weight without the add ons; it should have met the 32,000 lb. minimum weight without that, and it did not without the front wheels and add ons. Ihler said that is a safety issue, and the heavier the machine, the better off you are.

Ihler said five working speeds below 10 mph were requested, and Boeckings provided only three below 10 mph. The need for the five speeds is due to the multiple facets of operations at the landfill, as they are doing road grading, and also operating during muddy situations, and the side slopes, they want the variable speeds and also feel that the additional gears requested do increase the performance by increasing the speeds. He said the biggest factor is safety in operating the grader.

Shanklin said the weight can be added to the equipment. Ihler said the specification was set based on existing equipment, and that weight was provided in the specification.

Beller said the requested five working speeds was critical and Ihler agreed.

Purcell said a lot of time was spent in working on the specifications; there was a problem before when the specs are developed and people do not meet them and we want to take the bid. He said \$35,000 is a big difference, and it would be good to be able to save it, but if the specs are wrong, they should be changed; to let everyone come in and say they did not meet the specs but they were cheaper, there is a problem taking that bid. Purcell said one firm meets the specs, and the other does not but it is cheaper.

Maples asked if any of the existing equipment operates at three speeds. Ihler said the City has no other equipment like this.

Jim Taylor, C.L. Boyd Company, said their main store is in Oklahoma City but there is a branch store in Lawton that employs eight people. He said on the five working speeds, that adds versatility to the capability of the machine; crews will be working on slopes, roadways, ditches and drainage. Each application will determine which gear they need to operate in. Taylor said the advantage to the multiple selection is you can keep the engine RPMs up where you have full hydraulic control over the blade, steering, brakes, and also the travel speed does not exceed the need and allows for operation in an efficient manner.

Williams said the Specification Committee tries to work toward a generic specification that a number of vendors can meet, and maybe there was insufficient information, but the lowest bidder did not meet the specification.

MOVED by Williams, SECOND by Warren, to award the contract for the motor grader to C.L. Boyd Company. AYE: Warren, Maples, Williams, Dutcher, Purcell, Beller. NAY: Shanklin. MOTION CARRIED.

#### ADDENDUM BUSINESS ITEMS:

2. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a pending action in the matter of IAFF and Charles T. Taylor vs. the City of Lawton, FMCS 96-09962, and take appropriate action in open session. EXHIBITS: NONE.

3. Pursuant to Section 307B4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss a settlement offer on a pending lawsuit styled State of Oklahoma, ex rel, Department of Transportation; and the City of Lawton, Oklahoma, vs. Horton, et al., Case No. CJ-95-603, in the District Court of Comanche County, and take appropriate action in open session. EXHIBITS: NONE.

#### NEW BUSINESS ADDENDUM ITEM:

1. Pursuant to Section 307B2, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the status of negotiations between the City and the Fire Union, IAFF Local 1882, and in open session, take action on the Employment Agreement for FY 97-98 between the City and the Fire Union, IAFF Local 1882. EXHIBITS: NONE.

MOVED by Williams, SECOND by Dutcher, to convene in executive session as recommended by the legal staff. AYE: Warren, Maples, Williams, Dutcher, Purcell, Shanklin, Beller. NAY: None. MOTION CARRIED.

The Mayor and Council convened in executive session at 10:05 p.m. and reconvened in regular, open session at 10:50 p.m. with roll call reflecting all members present except Dutcher and Green.

Cruz reported the Mayor and Council met in executive session to consider the items listed on the agenda; on Item 2, the matter of Charles Taylor v. City of Lawton, no action is needed in open session and the City Attorney will proceed with previous actions.

Cruz reported on Item 3 regarding Horton, he would request that the Council approve settlement of this matter in the amount of \$650,000, with approximately \$210,000 to be placed on the tax rolls and approve a resolution to that effect.



MOVED by Williams, SECOND by Purcell, to approve a resolution regarding the Horton matter. AYE: Maples, Williams, Purcell, Shanklin, Beller, Warren. NAY: None. MOTION CARRIED.

(Title only) RESOLUTION NO. 97-50

A RESOLUTION APPROVING AND AUTHORIZING ACCEPTANCE AND PAYMENT OF SETTLEMENT IN THE CONDEMNATION CASE STYLED STATE OF OKLAHOMA, EX REL. DEPARTMENT OF TRANSPORTATION AND THE CITY OF LAWTON, OKLAHOMA VS. HORTON, ET AL., CASE NO. CJ-95-603, IN THE DISTRICT COURT OF COMANCHE COUNTY, OKLAHOMA.

Cruz reported a new item of business on executive session was the status of negotiations with the firefighters union; no action is needed at this time.

Cruz said as a new item of business, he briefed the Mayor and Council on the outcome of the Wightman case and that no action is needed at this time.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER.

Schumpert said a special Council meeting would be held May 5 at 9 a.m.

Schumpert said he was unable to reach anyone representing Cracker Barrel; there are a number of rumors that the restaurant is not coming to Lawton solely because of action, inaction or attitude, requirements, etc. from the Planning Department. Schumpert said a citizen was able to get in touch with an executive from Cracker Barrel and was told the City staff was very helpful to them and there was not a problem in that regard. He said the company president came here and viewed the site personally and did not like the road that winds down into it and did not like the fact that you could not see the restaurant if you were coming from the north until you got by the overpass. Schumpert said there is an indication that Cracker Barrel has found another site in Lawton.

There was no further business and the meeting adjourned at 10:55 p.m.